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SUMMARY RECORD OF THE 1235th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 12 July 1993, at 3 p.m.

Chairman: Mr. ANDO

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GE.93-17317 (E)

The meeting was called to order at 3.20 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4)

Initial report of Ireland (CCPR/C/68/Add.3)

1. At the invitation of the Chairman, Mr. Whelehan, Mr. Swift, Mr. O'Grady, Mr. Cole, Mr. Hamilton, Mr. Nolan, Mr. Denham, Ms. Kilcullen, Mr. O Floinn and Mr. Tisdall (Ireland) took places at the Committee table.

2. The CHAIRMAN welcomed the delegation headed by the Attorney General of Ireland, H.E. Mr. Harold A. Whelehan, whom he called upon to introduce that country's initial report (CCPR/C/68/Add.3).

3. Mr. WHELEHAN (Ireland) said that, while his country's accession to the International Covenant on Civil and Political Rights was of comparatively recent date, the concept of adherence to human rights standards was not a new one in Irish law. Subsequent to the achievement of independence from Britain, Ireland - fortunate not to have been subjected to totalitarianism from the left or from the right - had maintained an unbroken history as a parliamentary democracy, adding to a substantial inherited common law tradition a written Constitution, respect for which in domestic legislation was monitored by the superior courts. In his presentation of Ireland's initial report, supplemented by annexes which had been made available to the Committee through the Centre for Human Rights, he would bring certain matters up to date before commenting on some of the issues raised by non-governmental organizations (NGOs) whose submissions constituted a valuable contribution to the dialogue between the Committee and the Irish delegation.

4. With regard to international obligations, Ireland had, since the publication of the initial report in the autumn of 1992, signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and had ratified the Convention on the Rights of the Child. Following the lifting of its reservation with regard to article 6 (5) of the Covenant, Ireland had recently acceded to the Second Optional Protocol aiming at the abolition of the death penalty. Legislation was being prepared that would permit ratification of the Convention against Torture, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Transfer of Sentenced Persons.

5. Ireland had played an active and what he believed to have been a constructive role in the recent World Conference on Human Rights.

6. Expanding on the information contained in the report and its annexes, he first stated in relation to the travelling community - ethnically Irish and sharing the Roman Catholic religion of the majority but with customs which differed from those of the settled population - that its members' disadvantaged status was being addressed by anti-discrimination legislation. A task force including representatives of the travelling community and public representatives had been set up to advise on planning at the national and local levels in matters of housing, health, education and employment. It was government policy that travellers should participate in and contribute to decisions affecting their lifestyle.

7. With reference to discrimination more generally, there had been a number of significant developments in the area of equality and law reform, now a matter of ministerial responsibility. Priority was being accorded to the improvement of the status of women in the workplace, at home and in public affairs, as well as to the non-discriminatory treatment of minorities and persons with disabilities, including intellectual disabilities, in regard to education, employment and access to goods, services and facilities - including accommodation or other premises. As a result of legislation decriminalizing homosexuality, Ireland was no longer in breach of article 8 of the European Convention on Human Rights which required respect for private and family life.

8. Since the publication of the initial report, there had been a number of developments with regard to abortion-related issues that fell within the purview of articles 6, 12 and 19 of the Covenant. They included amendment of the Constitution to provide that its article 40.3.3 (dealing with the rights to life of the unborn and of the mother) should not limit freedom to travel between the Irish State and another State, or freedom to obtain or make available, in the Irish State, subject to such conditions as might be laid down by law, information relating to services lawfully available in another State. However, the substantive law in relation to abortion remained unchanged.

9. With reference to article 14 (5) of the Covenant on the right to review of conviction and sentence, legislation providing for a review of convictions in the event of fresh evidence coming to light after normal appeal procedures had been exhausted had been included in the Programme for Partnership Government adopted in January 1993 and was at an advanced stage of preparation.

10. Concerning interference with correspondence - the subject, inter alia, of article 17 of the Covenant - the conditions under which the existing power of the Minister for Justice to issue warrants authorizing the interception of postal packets and telecommunications messages had recently been placed on a statutory basis and made subject to regulation and supervision.

11. Concerning freedom of religion (article 18 of the Covenant), the question of religious discrimination in education was to be addressed in the current review of equality legislation. He pointed out that the Rules for National Schools under the Department of Education mentioned in paragraph 141 of the initial report discriminated neither between schools under the management of different religious denominations nor between such schools and multi-denominational schools. A typographical error in paragraph 142 of the report should be corrected: the beginning of the final sentence should read "No pupil enrolled in a State-aided first-level or second-level school ...".

12. In relation to article 23 of the Covenant, he recalled that article 41.3.2 of the Irish Constitution currently prohibited the enactment of legislation providing for the dissolution of marriage. A public debate on that issue had been initiated in 1992; the matter would be put to a referendum in 1994.

13. Concerning article 27 (3) of the Covenant and paragraph 244 of the initial report, he said that the Government had now decided to establish a special Irish-language television service.

14. Turning to some of the issues raised by NGOs, he first addressed the matter of the nine persons whose death sentences had been commuted to penal servitude for 40 years before the death penalty had been abolished, as mentioned in paragraph 45 of the initial report. The Government's decision to advise the President to commute the sentences had been taken on the understanding that the full sentences of 40 years would be served without remission in each case. In so advising, the Government acknowledged, however, that such an understanding would not preclude the President, acting under article 13 of the Constitution on the advice of the Government, from remitting at a later date the whole or any part of the punishment thus imposed.

15. Expanding on the subject of the state of emergency, the historical and legal background to which was described in paragraphs 29-31 of the report, he confirmed that no resolutions had been passed by the Houses of the Oireachtas (Parliament) declaring that the state of national emergency resolved to exist on 1 September 1976 had ceased. Regrettably, the armed conflict and the unsettled situation generally in Northern Ireland continued to prevail, taking a heavy toll in lives, injuries to persons and destruction of property, from which the Republic of Ireland itself was not immune. In response to an NGO submission, he said that in order to deal more effectively with problems created by the activities of subversive groups, the Garda Siochana (police force) had requested an extension of the seven-day detention period for which provision had initially been made under section 30 of the Offences against the State Act, 1976; no order had, however, been made by the Government to revive that Act, which had remained in force for one year only.

16. The security policy of successive Irish Governments, reflected in a number of additional enactments since the passing of the Offences against the State Act, 1939, which he briefly described, had been to oppose all forms of terrorism, whether perpetrated within the State or elsewhere. Ireland's concerns were not merely to stop the violence in the north from spreading into its own jurisdiction but also to prevent its territory from being used as a base from which to launch attacks against the population of Northern Ireland. Security issues were regularly discussed by the Irish and British Governments within the framework of the Anglo-Irish Agreement of 1985. He further described the establishment and functioning of the special criminal courts provided for in article 38.3.1 of the Irish Constitution. The powers provided by the Offences against the State Acts, 1939-1972, were clearly still required to protect from attack the ordered community of the State and ensure the exercise of individual rights and fundamental freedoms within the State.

17. On the subject of the right to hold opinions and the right to freedom of expression, as provided for by article 19 of the Covenant, he said that the recent Supreme Court ruling in the case of O'Toole v. Radio Telefis Eireann substantially narrowed the scope of the order established under section 31 of the Broadcasting Act, 1961, prohibiting the broadcasting of reports of interviews with spokesmen for Sinn Fein, as previously interpreted by the national broadcasting service; that important ruling demonstrated the willingness of the courts to review the acts of public authorities.

18. With regard to asylum, he reminded the Committee that the situation of European Community nationals and their families was governed by the Treaty of Rome. Concerning other nationals, the Programme for Partnership Government included a commitment to ensure that asylum-seekers, refugees and

non-nationals would be treated in accordance with the highest international standards. All aspects of the matter would be reviewed; as an interim measure, the Minister for Justice was arranging for the appointment of a legal expert to examine independently all appeals against the refusal of refugee status. Consultation also took place with the Office of the United Nations High Commissioner for Refugees (UNHCR) on every application for asylum.

19. In response to a number of NGO submissions on prison-related issues, he remarked that the problems faced by the Irish prison system were by no means unique, but were aggravated by the circumstances existing in Northern Ireland. Imprisonment was not used as a sanction to the same degree in Ireland as in other European countries: the Irish prison population currently stood at about 2,000 persons on any given day, while about 3,000 had been sentenced to alternative punishments. Under the Programme for Partnership Government, a review of prison policy had been initiated, and would be completed before the end of 1993. Sentencing policy was also under review, and a programme for refurbishing of existing prisons, including eventual 24-hour access to sanitary facilities, was under way. A number of NGO submissions had raised the issue of suicide in prison; he wished to assure the Committee that the circumstances surrounding the suicide of any person held in custody were carefully examined, in order to prevent further such tragedies. A special committee had formulated some 60 recommendations on the matter, more than half of which had already been implemented.

20. He submitted that the situation regarding both civil and political rights was very favourable in Ireland. A strong commitment to and sense of justice existed among the Irish people, secured by the common law tradition, underpinned by the written Constitution, implemented through the authority enjoyed by a strong and independent judiciary empowered to review both legislative and administrative acts and informed by an outward-looking approach to civil rights.

21. Mr. WENNERGREN, welcoming the Irish delegation, expressed appreciation of both the core document (HRI/CORE/1/Add.15) and the initial report (CCPR/C/68/Add.3), which augured well for a constructive dialogue with the Committee. Moreover, those comprehensive documents were amply supplemented by information on the human rights situation in Ireland provided by a number of NGOs, including the Irish Commission for Justice and Peace, as well as by the Attorney General's remarks in introducing the report.

22. With regard to the Emergency Powers Act, 1976, referred to in paragraphs 30 and 31 of the report, his understanding was that the state of emergency no longer existed in Ireland since the provisions of the Act had ceased to have effect in October 1977, but that the Government could at any time decide to reactivate the relevant provisions of that Act as deemed necessary. He inquired whether the extraordinary powers provided for under section 2 of the Act were indeed limited to the type of police inquiries described in paragraph 30 and, if not, whether any additional extraordinary powers were in conformity with article 4 of the Covenant.

23. In connection with article 9 of the Covenant, paragraphs 58 and 59 of the report outlined the basic rule of law and its statutory exceptions concerning the charging and early trial of persons arrested. He wondered whether the

same safeguards would apply in the case of a person detained under the provisions of the Emergency Powers Act. He also asked whether there were any time-limits for pre-trial detention.

24. The information provided by the Irish Commission for Justice and Peace indicated that the Garda Siochana had considerable discretion in deciding whether or not to charge suspects and institute proceedings against them. In order to avoid any possible abuse of the system, it would be advisable to prepare standard guidelines on the subject, and he inquired whether any steps had been taken in that direction. Likewise, in view of the number of incidents involving firearms, he considered that the police should be provided with rules and guidelines on their use.

25. Another problem which had been brought to the Committee's attention was that of citizens' participation in police inquiries, and he sought clarification regarding the remarks made by the Irish Commission for Justice and Peace in that respect. The Commission had also mentioned the fact that the board set up to deal with complaints against the police was so overburdened that it could not function properly. Were any measures to remedy the situation being envisaged?

26. He considered Irish law to be rather old-fashioned in regard to the treatment of the mentally ill, who apparently had little opportunity for judicial review due to the difficulty in securing legal aid. He inquired whether there were any plans to improve the current treatment and detention of the mentally ill under Irish law and would also welcome information on other forms of administrative detention.

27. He welcomed the current upgrading of prisons, as mentioned by the Attorney General in his introduction, but wondered whether the Standard Minimum Rules for the Treatment of Prisoners were applied in Ireland.

28. With regard to the court system and the judiciary, he failed to understand the need for the establishment of special criminal courts for the trial of certain offences which it was considered could not be properly dealt with by the ordinary criminal courts. Did the fact that there was no trial by jury in such special courts have any relevance in that connection?

29. He expressed concern with regard to the oath which judges were compelled to take before being appointed, as provided for in article 34.5, of the Irish Constitution. It implied that non-believers could not become judges in Ireland, which was certainly not in accordance with the provisions of article 18 of the Covenant relating to the right to freedom of thought, conscience and religion.

30. With regard to paragraph 110 of the report, relating to article 11 of the Covenant, he sought clarification as to the definition of "culpable neglect", which was mentioned as one of the grounds for imprisonment of debtors.

31. In conclusion, he voiced concern over the fact that, under Irish law, freedom of expression and the right of peaceful assembly were not permitted to the extent envisaged by the Covenant.

32. Mrs. EVATT commended the Irish delegation on its comprehensive report, which clearly explained the Irish Constitution and legal system as well as the reservations made to the Covenant. She welcomed the fact that many concerns related to the human rights situation in Ireland had been addressed in the Attorney General's introductory remarks.

33. She asked what steps had been taken to educate members of the public about their fundamental civil and political rights. Stressing the importance of ready access to the courts in order to protect such rights, she wondered how easy it was for Irish citizens to bring legal proceedings and be provided with legal aid if necessary. She further inquired whether human rights formed part of the national school curriculum and whether special courses dealing with the cultural, racial and gender-related aspects of human rights were given for persons in the legal profession.

34. She observed that there were a number of areas of incompatibility between the Irish Constitution and the Covenant, since the rights enshrined in the latter had never been fully incorporated in Irish law. She expressed concern over the absence of any mechanism for assessing the scope and application of such conflicting provisions. She was not satisfied with the explanations given in paragraph 31 of the core document and asked what measures might be adopted to give the Covenant the status of a constitutional document.

35. One of the areas in which the provisions of the Constitution could be invoked to undermine the rights protected by the Covenant was that of equal rights for women. For instance, the Constitution stipulated that mothers should not be obliged by economic necessity to engage in labour to the neglect of their duties in the home. She submitted that the rather patriarchal assumption on which that provision was based was not in full conformity with article 23 (4) of the Covenant concerning equality of rights and responsibilities. Such an assumption might also explain the wage differences that still existed between men and women in Ireland.

36. Another area of conflict was the right to life of the unborn child which, although enshrined in the Irish Constitution, was not recognized by the Covenant. In that connection, she welcomed the prospective constitutional amendments mentioned by the Attorney General.

37. A further matter of concern was the continuation of the state of emergency first declared in 1976. She sought clarification concerning the extent of derogations from the Covenant in that regard as well as the existence of appropriate provisions for the notification of such derogations.

38. Some reform of the State religious education policy currently in force was certainly necessary, since it favoured the dominant religions, with the result that there were very few non-denominational schools in Ireland. She wondered to what extent the provisions concerning the minimum number of pupils required in order to receive State funding discriminated against minority religions. Exactly how important was religious education in the national school curriculum?

39. She questioned the compatibility of rule 68 of the Rules for National Schools referred to in the initial report with the freedom of individuals and parents to adopt a religion of their choice and the freedom from coercion

protected by the Covenant. In that connection, she welcomed the amendment announced by the Attorney General with reference to article 18 of the Covenant. Since the principle of freedom of religion was at risk under the current policy, she sought confirmation that the provisions of the Covenant would be fully adhered to through the implementation of the proposed reforms.

40. Reverting to the subject of the enjoyment of equal rights by women, she failed to understand why the report dealt with such issues only in connection with article 3. Moreover, although she welcomed the prospect of further reforms, she stressed the need for special attention to be given to certain aspects such as violence against women. In that connection, she inquired what steps Ireland was taking to follow up the recommendations of the Committee on the Elimination of Discrimination against Women and what was its position regarding the draft declaration on violence against women.

41. As for prison conditions, she regretted the fact that the only option available for female prisoners in Ireland was closed prisons. Such strict supervision seemed unnecessary and, still more importantly, the imprisonment of 16 to 21-year-olds was in many cases entirely inappropriate.

42. Concerning matters of privacy and the family, she observed that article 41 of the Irish Constitution recognized the family and guaranteed its protection. However, she could find no clear definition of the family as such and wondered whether it extended to the single parent. Furthermore, what exactly was meant by the "authority" of the family, as referred to in that article? She would also welcome further information on the rate of marriage breakdown in Ireland and the consequences of the Constitution's ban on divorce. Were persons living in extramarital relationships guaranteed adequate financial and personal protection? In that connection, she welcomed the proposed new laws on property rights and the prospective referendum on the question of divorce.

43. With regard to censorship, she pointed out that the blanket restriction under section 31 of the Broadcasting Authority Act, 1960 raised issues under both articles 19 and 25 of the Covenant, since it restricted political debate and the right to the exchange of information in relation to the democratic process. She would therefore welcome any steps towards the possible review of that Act.

44. She expressed satisfaction at the proposed laws to prevent discrimination against the travelling community in Ireland as well as the country's ratification of the International Convention on the Elimination of All Forms of Racial Discrimination. Clearly such measures were necessary as the travelling community had for many years suffered discrimination with regard to employment, State education and health care, not to mention the right to life due to the high rate of infant mortality.

45. In conclusion, she reiterated her appreciation of the report and Ireland's obvious commitment to improving its human rights situation.

46. Mr. HERNDL said that the report of Ireland provided a comprehensive insight into the Irish legal system, but that certain ambiguities persisted. On the "dualist" system referred to in paragraphs 29-33 of the core document (HRI/CORE/1/Add.15) and the extent to which the Covenant could be made part of

internal law, he said that, if an international instrument was not part of the law of the land, then the administrative authorities and tribunals clearly could not apply it. However, he wondered whether judges in doubt over the meaning of a specific norm of internal law could not find a way of taking account of the Covenant, as an international obligation recognized by the Government, in reaching a decision, thereby bringing implementation of internal norms more closely into line with the Covenant's provisions. With regard to paragraph 65 of the same document, he wondered whether enough was being done to publicize the Covenant, not just among the public at large, but specifically among those groups, such as attorneys, that were directly involved in applying it.

47. Turning to the section of the main report (CCPR/C/68/Add.3) dealing with article 4, he asked what was the relationship between the two Acts referred to in paragraph 30, and specifically, whether the length of detention was five days, as stated in that paragraph, or seven days, as could be inferred from the remarks made by the Attorney General.

48. On article 6 and the question of the death penalty (para. 43 of the report), he wished to know why it had been found necessary to make an explicit reservation to article 6 (5) of the Covenant, and whether it would not now be appropriate formally to withdraw that reservation. Similarly, would the Government not consider ratifying the second Optional Protocol to the Covenant, in view of the fact that the death penalty no longer existed in Ireland?

49. On article 10, he wondered whether the situation with regard to prison conditions was as positive as suggested in paragraphs 70-109 of the report, in view of the rate of suicides in prisons and the implication in paragraph 75 that accommodation conditions were currently deemed unsatisfactory. Paragraph 95 stated that four psychologists worked for the Department of Justice: the ratio was thus apparently one psychologist to 700 or 800 prisoners. Was that ratio considered satisfactory, or was the recruitment of outside assistance envisaged for specific cases?

50. On paragraph 105, he asked for clarification of the phrases "as far as practicable" and "not practicable", which seemed to imply some failure to comply with the terms of article 10 of the Covenant regarding segregation and separation of adults and juveniles. Similarly, he wondered whether the exception whereby a person could be committed to prison for failure to pay a civil debt through wilful refusal or culpable neglect, as referred to in paragraph 110, was not inconsistent with article 11 of the Covenant. Regarding article 12, paragraph 111 of the report stated that freedom of movement had been identified by the Supreme Court as a personal right guaranteed by the Constitution. However, he noted that that right was not specifically embodied in the Constitution itself. Where the freedom of movement of pregnant women seeking abortions was concerned, he welcomed the recent constitutional amendment in that regard, since the view of the Supreme Court referred to in paragraph 41 clashed directly with the provisions of article 12 of the Covenant.

51. Mr. MAVROMMATIS said that the eminence of the Irish delegation was indicative of Ireland's serious approach to the question of human rights and fundamental freedoms, as was the high quality of the initial report and of the

core document. However, there were certain grey areas. Ireland departed from the common law tradition in having a written Constitution; but that Constitution - perhaps because it was somewhat dated - lacked some provisions normally to be found in a Bill of Rights, so that certain rights had to be identified by the Supreme Court. Furthermore, restrictions that could be imposed by law and grounds for discrimination were not clearly spelled out. He would welcome some explanation of why Ireland, as a party to the European Convention on Human Rights and to other international conventions, had taken so long to accede to the Covenant or to amend its legislation on the criminalization of homosexual acts between consenting adults, especially in view of its familiarity with Council of Europe case law in that regard. He also noted that the constitutional requirement that the President, members of the Cabinet and all judges should make a declaration containing a reference to God prevented agnostics or atheists from occupying such posts.

52. Regarding article 4, in its oral presentation the delegation had made it absolutely clear that an emergency continued to exist. That being the case, the Government should reread article 4 of the Covenant and consider whether any derogations existed, for example, with regard to the length of detention by the Garda, since the permitted period of seven days conflicted with the Committee's own understanding of what constituted an acceptable period. With regard to the justification for special criminal courts referred to in paragraph 27 of the core document, recourse to such courts should be limited to a strict minimum, and clearly spelled out, either in the Constitution or in some other suitable form.

53. The questions of the right to life of the unborn and divorce should be kept under constant consideration until such time as the Committee was in a position to pronounce on those issues. On article 11, he asked whether the cost of maintenance of an imprisoned debtor was borne by the creditor or by the State. He shared the doubts expressed in paragraph 116 of the report as to the appropriateness of continuing to refer to European Community nationals as "aliens". On article 14, while commending the Garda Juvenile Liaison Officer Scheme, he wondered whether the Garda was the appropriate body to administer such a scheme. On article 19, he noted that the approach to censorship was outdated, and that the censors enjoyed extremely wide powers that could lend themselves to abuse. A change of policy was needed.

54. On article 21, the vague reference in paragraph 170 to "restrictions" exemplified the failure of the report clearly to spell out the precise nature of permitted limitations. On article 25, were civil servants other than the two exceptional categories referred to permitted to strike? In view of the provisions of article 25, should account be taken of the measures adopted in some other countries, where civil servants could stand as candidates in elections if they applied for leave of absence and if, where elected, they vacated their posts? On article 26, it would be appropriate to consider to what extent domestic law was in line with the case law of the Committee regarding discrimination. Finally, on article 27, the Attorney General had provided valuable additional information concerning the travelling community in his oral presentation. However, he wished to know, specifically, whether travelling people registered to vote, and how they were enabled to vote, in view of their itinerant status.

55. Mr. FODOR said that the report of Ireland was succinct, informative and candid in its admission that problems persisted in certain areas. Furthermore, in its introduction, the Irish delegation had provided useful information on issues raised by NGOs. Nevertheless, some concerns remained. First, he shared Mr. Mavrommatis' surprise that Ireland had become a party to the Covenant only in 1989. No doubt the delay was partly due to the time needed to harmonize legislation, given that the Covenant was not part of Irish domestic law, but were there any other factors to account for the delay? The State party had made six reservations on ratifying the Covenant, one of which had since been withdrawn. Had the time now come for it to consider the possibility of withdrawing some of the other reservations?

56. On the issue of equality, the State party had made efforts to eliminate the differences between legitimate and illegitimate children. Did both categories now enjoy equal rights in all respects? Paragraph 22 referred to the interim recommendations submitted to the Prime Minister by the Second Commission on the Status of Women on 25 April 1991. How many of those recommendations had since been implemented? He noted that the Council for the Status of Women referred to in paragraph 26 received almost its entire funds from the Government. How could the organization carry out its duties independently and impartially if it was not financially independent? Women were still somewhat disadvantaged in Irish society, especially with regard to equal wages. How soon would the difference between men's and women's earnings in industry be entirely eliminated?

57. On article 4, he noted that on 1 September 1976 a national emergency had been declared by Parliament, replacing a state of emergency continuously in force since 1939. Measures originally intended as emergency measures had become part of the permanent legislation of the country as a consequence of that situation. In spite of the argument put forward in the delegation's introductory statement, a situation in which a state of emergency persisted for several decades was regrettable, and the State party should make every effort to put an end to that state of affairs. He also wished to know what rights protected by the Covenant could be derogated from under emergency legislation.

58. Paragraph 50 referred to some old statutes permitting corporal punishment for certain offences. What was the current status of those statutes? Was corporal punishment permitted in educational institutions? What proposals to update the mental treatment legislation had emerged as a result of the review referred to in paragraph 69?

59. According to the information submitted by various sources, some prisons were overcrowded and there was a shortage of appropriate detention units for young offenders, so that young persons and juvenile offenders aged 18 to 21 were not always segregated from adult prisoners. In the light of the reservation entered by the State party to article 10 (2), was it realistic to expect any improvement in the near future, so that the segregation of young offenders might be assured? Regarding the prison system, he asked for clarification of the complaints procedures available to prisoners. Did they have access to an ombudsman or a parliamentary committee? What mechanisms existed for the independent monitoring of the prison system as a whole?

60. Special criminal courts had been in operation in Ireland since 1972. Under the Constitution, such courts should be established when ordinary courts were inadequate to secure the effective administration of justice. Persons coming before such courts were tried without jury, and were thus denied equal treatment. Was there still a need for special criminal courts, more than 20 years after their introduction?

61. Under article 14 (6) of the Covenant, the victim of a miscarriage of justice should be compensated according to law. The State party had entered a reservation to the Covenant to the effect that such compensation should be through administrative procedures. Taking account of current practices, the question arose whether the existing administrative procedures were satisfactory.

62. The fact that in a limited number of cases the police were entitled to initiate searches without a warrant might give rise to abuses. What category of cases was covered by that provision? In relation to article 18 of the Covenant, the report focused mainly on religious and moral education, but the Committee would like to know more about the limitations prescribed by the law in the educational field. In regard to censorship, the discretion of the Censorship of Publications Board appeared to be too broad. It was not clear why the Board should be required to assess the artistic, scientific or historic importance of a book (para. 154 of the report). Was the Board entitled to examine the manuscript of a book and prohibit publication at that stage? Was there any provision for review of the Board's decisions by the courts and did the Board state the grounds for its decisions? The terms of reference of the film censor also appeared to be too broad.

63. In connection with article 21, the report referred to restrictions on the right of assembly but did not specify what those restrictions were. Under article 22 reference was made only to trade unions. When was a political party regarded as legal, for example, and what were the requirements for its registration? How many illegal parties existed in the Republic of Ireland at the present time and why had they been declared illegal?

64. Mr. SADI said that Ireland's substantial delay in ratifying the Covenant was a matter of concern and the Committee would like to hear the reasons for it. Even now the status of the Covenant was not entirely clear. Could a person invoke its provisions before the courts? A state of emergency had been in force since 1976. Could the Irish delegation indicate to which rights provided for in the Covenant derogations applied? A related point of some concern was the fact that Ireland had failed to notify the Secretary-General of the state of emergency in accordance with article 4 (3) of the Covenant. Why had that not been done?

65. While welcoming the emphasis on the instruction of the police in human rights matters, he noted that other sectors of the administration and indeed the general public also had need of education in human rights. The report referred frequently to citizens' rights, whereas article 2 (1) of the Covenant spoke of the rights of individuals. The report stated that the normal courts were ineffective in an emergency and he would like to know what were the specific issues which could not be dealt with effectively by the normal courts.

66. The reservations made by the Republic of Ireland on acceding to the Covenant, in particular the reservation in respect of article 14, were a cause for concern, as was the apparent failure to enact any legislation to combat incitement to ethnic or racial hatred.

67. Mr. NDIAYE, observing that the status of the Covenant in the Irish legal system was an important issue and that some elements of the Covenant had been included in domestic legislation, inquired what was the criterion for such inclusion and which provisions of the Irish Constitution and court decisions militated against such incorporation.

68. He would also like to know what the Government had done to disseminate information on the Covenant as an instrument for the promotion of human rights. Rights were of no value unless their beneficiaries were aware of them.

69. Another point of some concern was the extent to which the unrest in Northern Ireland had affected human rights in the Republic of Ireland, particularly in such areas as freedom of the press, detention, censorship and the situation of minorities. It would appear that a distinction was made between persons who were Irish citizens by birth and those who acquired Irish citizenship by naturalization. If that was so, the distinction should be removed.

70. The report seemed to indicate that the availability of legal aid was subject to the decision of the courts. That was too restrictive an approach; the only valid criterion was financial need. The situation in regard to minorities was not entirely clear and in any case the views of minorities seldom differed greatly from the majority view. The question at issue was whether the treatment of minorities was satisfactory.

71. He wondered how the free profession and practice of religion, as provided for in article 44.2 of the Constitution, could be guaranteed in view of the provisions of article 44.1.

72. Mr. EL SHAFEI asked for clarification of the status of the Covenant in the Republic of Ireland. Article 29.6 of the Constitution stated that "no international agreement shall be part of the domestic law of the State save as may be determined by the Oireachtas", as a statement that had been interpreted to mean that the courts were precluded from giving effect to the Covenant.

73. The state of emergency proclaimed in the mid-1970s was another important issue. He did not fully understand the grounds for the establishment and maintenance of the state of emergency. If a public desire to end the state of emergency were to be manifested, what procedure would be followed? He also inquired about the procedure for declaring a state of emergency in the first place. Would the Government or the Head of State go to Parliament and propose the establishment of a state of emergency, as was done in other countries? He reminded the Irish delegation that article 4 of the Covenant spoke of a "public emergency which threatens the life of the nation and the existence of which is officially proclaimed", a definition which was clearly very restrictive.

74. The recommendations of the Second Commission on the Status of Women in Ireland, described in the report (paras. 21 and 22) tended to address the general issues rather than call for specific policy decisions, especially in regard to regulations on non-discrimination. He asked what would be the procedure to be followed if the Council for the Status of Women, which was required, inter alia, to examine allegations of discrimination and make recommendations, concluded that discrimination had in fact occurred. Was the Executive bound to implement the Council's findings?

75. He requested further clarification regarding the rights of aliens in Ireland, and particularly their right to own property.

The meeting rose at 6.10 p.m.